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public about actual or alleged Federal Government activity.

(3) *How to request expedited access.* We will be required to make factual and subjective judgments about the circumstances cited by requesters to qualify them for expedited processing. To request expedited access, your request must be in writing and it must explain in detail your basis for seeking expedited access. The categories for compelling need are intended to be narrowly applied:

(i) *A threat to an individual's life or physical safety.* A threat to an individual's life or physical safety should be imminent to qualify for expedited access to the records. You must include the reason why a delay in obtaining the information could reasonably be foreseen to cause significant adverse consequences to a recognized interest.

(ii) *Urgency to inform.* The information requested should pertain to a matter of a current exigency to the American public, where delay in response would compromise a significant recognized interest. The person requesting expedited access under an "urgency to inform," must be primarily engaged in the dissemination of information. This does not include individuals who are engaged only incidentally in the dissemination of information. "Primarily engaged" requires that information dissemination be the main activity of the requester. A requester only incidentally engaged in information dissemination, besides other activities, would not satisfy this requirement. The public's right to know, although a significant and important value, would not by itself be sufficient to satisfy this standard.

(4) *Estimation of matter denied.* The agency will try to estimate the volume of any denied material and provide the estimate to the requester, unless doing so would harm an interest protected by an exemption.

(h) *Computer redaction.* The agency will identify the location of deletions in the released portion of the records, and where technologically possible, will show the deletion at the place on the record where the deletion was made, unless including that indication would harm an interest protected by an exemption.

(i) *Annual report on FOIA activities.* Reports on FOIA activities are submitted each fiscal year to the Department of Justice, and are due by February 1 of every year. The BBG's report will be available both in hard copy and through the Internet. The Department of Justice will also report all Federal agency FOIA activity through electronic means.

(j) *Reference materials and guides.* The agency has available in hard copy, and electronically through the Internet, a guide for requesting records under the FOIA, and an index and description of all major information systems of the agency. The guide is a simple explanation of what the FOIA is intended to do, and how you can use it to access BBG records. The Index explains the types of records that may be requested from the Agency through FOIA requests and why some records cannot, by law, be made available by the BBG.

PART 505—PRIVACY ACT REGULATION

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AUTHORITY: Pub. L. 93-579, 88 Stat. 1897; 5 U.S.C. 552a.

SOURCE: 67 FR 8875, Feb. 27, 2002, unless otherwise noted.

§ 505.1 Purpose and scope.

The Broadcasting Board of Governors (BBG) will protect individuals' privacy from misuses of their records, and grant individuals access to records concerning them which are maintained by the Agency's domestic and overseas offices, consistent with the provisions of Public Law 93-579, 88 Stat. 1897; 5 U.S.C.

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552a, the Privacy Act of 1974, as amended. The Agency has also established procedures to permit individuals to amend incorrect records, to limit the disclosure of personal information to third parties, and to limit the number of sources of personal information. The Agency has also established internal rules restricting requirements of individuals to provide social security account numbers.

§ 505.2 Definitions.

(a) *Access Appeal Committee (AAC)*. The body established by and responsible to the Broadcasting Board for reviewing appeals made by individuals to amend records held by the Agency.

(b) *Agency, BBG, our, we or us*. The BBG, its offices, divisions, branches and its worldwide operations.

(c) *Amend*. To make a correction to or expunge any portion of a record about an individual which that individual believes is not accurate, relevant, timely or complete.

(d) *Individual or you*. A citizen of the United States or an alien lawfully admitted for permanent residence.

(e) *Maintain*. Collect, use, store, disseminate or any combination of these record keeping functions; exercise of control over and hence responsibility and accountability for systems of records.

(f) *Record*. Any information maintained by the Agency about an individual that can be reproduced, including finger or voice prints and photographs, and which is retrieved by that particular individual's name or personal identifier, such as a social security number.

(g) *Routine use*. With respect to the disclosure of a record, the use of such record for a purpose, which is compatible with the purpose for which it was collected. The common ordinary purposes for which records are used and all of the proper and necessary uses even if any such uses occur infrequently.

(h) *Statistical record*. A record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in 12 U.S.C.8.

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(i) *System of records*. A group of records under the maintenance and control of the Agency from which information is retrieved by the name or personal identifier of the individual.

(j) *Personnel record*. Any information about an individual that is maintained in a system of records by the Agency that is needed for personnel management or processes such as staffing, employee development, retirement, grievances and appeals.

(k) *Worldwide Operations*. Any of the foreign service establishments of the Agency.

§ 505.3 Procedures for requests.

(a) The agency will consider all written requests received from an individual for records pertaining to herself/himself as a request made under the Privacy Act of 1974, as amended (5 U.S.C. 552a) whether or not the individual specifically cites the Privacy Act when making the request.

(b) All requests under the Privacy Act should be directed to the FOIA/Privacy Act Office, Office of the General Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW, Washington, DC 20237, which will coordinate the search of all systems of records specified in the request. Requests should state name, date of birth, and social security number.

(c) Requests directed to any of the Agency's worldwide establishments which involve routine unclassified, administrative and personnel records available only at those establishments may be released to the individual by the establishment if it determines that such a release is authorized by the Privacy Act. All other requests shall be submitted by the establishment to the FOIA/Privacy Act Office, Office of the General Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW, Washington, DC 20237, and the individual shall be so notified of this section in writing, when possible.

(d) In those instances where an individual requests records pertaining to herself/himself, as well as records pertaining to another individual, group or some other category of the Agency's

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records, only that portion of the request which pertains to records concerning the individual will be treated as a Privacy Act request. The remaining portions of such a request will be processed as a Freedom of Information Act request and sent to the office noted in paragraph (b) of this section.

§ 505.4 Requirements and identification for making requests.

(a) When you seek access to Agency records, you may present your written request, fax it to (202) 260-4394 or mail it to the FOIA/Privacy Act Office, Office of the General Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW, Washington, DC 20237. The FOIA/Privacy Act Office may be visited between the hours of 9 a.m. and 3 p.m., Monday through Friday, except for legal holidays.

(b) When you seek access to Agency records, you will be requested to present identification. You must state your full name, date of birth and social security number. You must also include your present mailing address and zip code, and if possible, a telephone number.

(c) When signing a statement confirming your identity, you should understand that knowingly and willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

§ 505.5 Disclosure of information.

(a) In order to locate the system of records that you believe may contain information about you, you should first obtain a copy of the Agency's Notice of Systems of Records. By identifying a particular record system and by furnishing all the identifying information requested by that record system, it would enable us to more easily locate those records which pertain to you. At a minimum, any request should include the information specified in Sec. 505.4(b).

(b) In certain circumstances, it may be necessary for us to request additional information from you to ensure that the retrieved record does, in fact, pertain to you.

(c) All requests for information on whether or not the Agency's systems of records contain information about you will be acknowledged within 20 working days of receipt of that request. The requested records will be provided as soon as possible thereafter.

(d) If the Agency determines that the substance of the requested record is exceptionally sensitive, we will require you to furnish a signed, notarized statement that you are in fact the person named in the file before granting access to the records.

(e) Original records will not be furnished subject to and in accordance with fees established in § 505.11.

(f) Denial of access to records:

(1) The requirements of this section do not entitle you access to any information compiled in reasonable anticipation of a civil action or proceeding.

(2) Under the Privacy Act, we are not required to permit access to records if the information is not retrievable by your name or other personal identifier; those requests will be processed as Freedom of Information Act requests.

(3) We may deny you access to a record, or portion thereof, if following a review it is determined that the record or portion falls within a system of records that is exempt from disclosure according to 5 U.S.C. 552a(j) and 552a(k). See §§ 505.13 and 505.14 for a listing of general and specific exemptions.

(4) The decision to deny access to a record or a portion of the record is made by the Agency's Privacy Act Officer. The denial letter will advise you of your right to appeal the denial (See § 505.9 on Access Appeal Committee's review).

§ 505.6 Medical records.

If, in the judgment of the Agency, the release of medical information to you could have an adverse effect, the Agency will arrange an acceptable alternative to granting access of such records directly to you. This normally involves the release of the information to a doctor named by you. However, this special procedure provision does not in any way limit your absolute right to receive a complete copy of your medical record.

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§ 505.7 Correction or amendment of record.

(a) You have the right to request that we amend a record pertaining to you which you believe is not accurate, relevant, timely, or complete. At the time we grant access to a record, we will furnish guidelines for you to request amendment to the record.

(b) Requests for amendments to records must be in writing and mailed or delivered to the FOIA/Privacy Act Officer, FOIA/Privacy Act Office, Office of the General Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW, Washington, DC 20237, who will coordinate the review of the request to amend the record with the appropriate office(s). Such requests must contain, at a minimum, identifying information needed to locate the record, a brief description of the item or items of information to be amended, and the reason for the requested change. The requester should submit as much documentation, arguments or other data as seems warranted to support the request for amendment.

(c) We will review all requests for amendments to records within 20 working days of receipt of the request and either make the changes or inform you of our refusal to do so and the reasons.

§ 505.8 Agency review of requests for changes.

(a) In reviewing a record in response to a request to amend or correct a file, we will incorporate the criteria of accuracy, relevance, timeliness, and completeness of the record in the review.

(b) If we agree with you to amend your records, we will:

- (1) Advise you in writing;
- (2) Correct the record accordingly;
- (3) And, to the extent that an accounting of disclosure was maintained, advise all previous recipients of the record of the corrections.

(c) If we disagree with all or any portion of your request to amend a record, we will:

- (1) Advise you of the reasons for the determination; and
- (2) Inform you of your right to further review (see Sec. 505.9).

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§ 505.9 Review of adverse agency determination.

(a) When we determine to deny a request to amend a record, or portion of the record, you may request further review by the Agency's Access Appeal Committee. The written request for review should be mailed to the Chairperson, Access Appeal Committee, FOIA/Privacy Act Office, Office of the General Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW., Washington, DC 20237. The letter should include any documentation, information or statement, which substantiates your request for review.

(b) The Agency's Access Appeal Committee will review the Agency's initial denial to amend the record and your documentation supporting amendment, within 30 working days. If additional time is required, you will be notified in writing of the reasons for the delay and the approximate date when the review is expected to be completed. Upon completion of the review, the Chairperson will notify you of the results.

(c) If the Committee upholds the Agency's denial to amend the record, the Chairperson will advise you of:

- (1) The reasons for our refusal to amend the record;
- (2) Your right and the procedure to add to the file a concise statement supporting your disagreement with the decision of the Agency; and
- (3) Your right to seek judicial review of the Agency's refusal to amend the file.

(d) When you file a statement disagreeing with our refusal to amend a record, we will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use of, or reason to disclose the file. If information is disclosed regarding the area of dispute, we will provide a copy of your statement in the disclosure. Any statement, which may be included by the Agency regarding the dispute, will be limited to the reasons given to you for not amending the record. Copies of our statement shall be treated as part of your record, but will not be subject to amendment by you under these regulations.

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§ 505.10 Disclosure to third parties.

We will not disclose any information about you to any person or another agency without your prior consent, except as provided for in the following paragraphs:

(a) *Medical records.* May be disclosed to a doctor or other medical practitioner, named by you, as prescribed in Sec. 505.6.

(b) *Accompanying individual.* When you are accompanied by any other person, we will require that you sign a statement granting consent to the disclosure of the contents of your record to that person.

(c) *Designees.* If a person requests another person's file, he or she must present a signed statement from the person of record that authorizes and consents to the release of the file to the designated individual.

(d) *Guardians.* Parents or legal guardians of dependent minors or of an individual who has been declared by a court to be incompetent due to physical, mental or age incapacity, may act for and on behalf of the individual on whom the Agency maintains records.

(e) *Other disclosures.* A record may be disclosed without a request by or written consent of the individual to whom the record pertains if such disclosure conditions are authorized in accordance, with 5 U.S.C. 552a(b). These conditions are:

(1) *Disclosure within the Agency.* This condition is based upon a "need-to-know" concept, which recognizes that Agency personnel may require access to discharge their duties.

(2) *Disclosure to the public.* No consent by an individual is necessary if the record is required to be released under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The record may be exempt, however, under one of the nine exemptions of the FOIA.

(3) *Disclosure for a routine use.* No consent by an individual is necessary if the condition is necessary for a "routine use" as defined in Sec. 505.2(g). Information may also be released to other government agencies, that have statutory or other lawful authority to maintain such information.

(4) *Disclosure to the Bureau of the Census.* For purposes of planning or carrying out a census or survey or related

activity. Title 13 U.S.C. Section 8 limits the uses of these records and also makes them immune from compulsory disclosure.

(5) *Disclosure for statistical research and reporting.* The Agency will provide the statistical information requested only after all names and personal identifiers have been deleted from the records.

(6) *Disclosure to the National Archives.* For the preservation of records of historical value, according to 44 U.S.C. 2103.

(7) *Disclosure for law enforcement purposes.* Upon receipt of a written request by another Federal agency or a state or local government describing the law enforcement purpose for which a record is required, and specifying the particular record. Blanket requests for all records pertaining to an individual are not permitted under the Privacy Act.

(8) *Disclosure under emergency circumstances.* For the safety or health of an individual (e.g., medical records on a patient undergoing emergency treatment).

(9) *Disclosure to the Congress.* For matters within the jurisdiction of any House or Senate committee or subcommittee, and/or joint committee or subcommittee, but only when requested in writing from the Chairman of the committee or subcommittee.

(10) *Disclosure to the General Accounting Office (GAO).* For matters within the jurisdiction of the duties of the GAO's Comptroller General.

(11) *Disclosure according to court order.* According to the order of a court of competent jurisdiction. This does not include a subpoena for records requested by counsel and issued by a clerk of court.

§ 505.11 Fees.

(a) The first copy of any Agency record about you will be provided free of charge. A fee of \$0.15 per page will be charged for any additional copies requested by you.

(b) Checks or money orders should be made payable to the United States Treasurer and mailed to the FOIA/Privacy Act Office, Office of the General

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Counsel, Broadcasting Board of Governors, Suite 3349, 330 Independence Avenue, SW., Washington, DC 20237. The Agency will not accept cash.

§ 505.12 Civil remedies and criminal penalties.

(a) *Grounds for court action.* You will have a remedy in the Federal District Court under the following circumstances:

(1) *Denial of access.* You may challenge our decision to deny you access to records to which you consider yourself entitled.

(2) *Refusal to amend a record.* Under the conditions of 5 U.S.C. 552a(g), you may seek judicial review of the Agency's refusal to amend a record.

(3) *Failure to maintain a record accurately.* You may bring suit against the Agency for any alleged intentional and willful failure to maintain a record accurately, if it can be shown that you were subjected to an adverse action resulting in the denial of a right, benefit, entitlement or employment you could reasonably have been expected to be granted if the record had not been deficient.

(4) *Other failures to comply with the Act.* You may bring an action for any alleged failure by the Agency to comply with the requirements of the Act or failure to comply with any rule published by the Agency to implement the Act provided it can be shown that:

(i) The action was intentional or willful;

(ii) The Agency's action adversely affected you; and

(iii) The adverse action was caused by the Agency's actions.

(b) *Jurisdiction and time limits.* (1) Action may be brought in the district court for the jurisdiction in which you reside or have a place of residence or business, or in which the Agency records are situated, or in the District of Columbia.

(2) The statute of limitations is two years from the date upon which the cause of action arises, except for cases in which the Agency has materially and willfully misrepresented any information requested to be disclosed and when such misrepresentation is material to the liability of the Agency. In such cases the statute of limitations is

two years from the date of discovery of the misrepresentation by you.

(3) A suit may not be brought on the basis of injury, which may have occurred as a result of the Agency's disclosure of a record prior to September 27, 1975.

(c) *Criminal penalties*—(1) *Unauthorized disclosure.* It is a criminal violation of the provisions of the Act for any officer or employee of the Agency to knowingly and willfully disclose a record in any manner to any person or agency not entitled to receive it, for failure to meet the conditions of disclosure listed in 5 U.S.C. 552a(b), or without the written consent or at the request of the individual to whom the record pertains. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(2) *Failure to publish a public notice.* It is a criminal violation of the Act to willfully maintain a system of records and not publish the prescribed public notice. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(3) *Obtaining records under false pretenses.* The Act makes it a criminal offense to knowingly and willfully request or gain access to a record about an individual under false pretenses. Any person found guilty of such an offense may be fined not more than \$5,000.

§ 505.13 General exemptions (Subsection (j)).

(a) General exemptions are available for systems of records which are maintained by the Central Intelligence Agency (Subsection (j)(1)), or maintained by an agency which performs as its principal function any activity pertaining to the enforcement of the criminal laws (Subsection (j)(2)).

(b) The Act does not permit general one exemption of records compiled primarily for a non-criminal purpose, even though there are some quasi-criminal aspects to the investigation and even though the records are in a system of records to which the general exemption applies.

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§ 505.14 Specific exemptions (Subsection (k)).

The specific exemptions focus more on the nature of the records in the system of records than on the agency. The following categories of records may be exempt from disclosure:

(a) *Subsection (k)(1)*. Records which are specifically authorized under criteria established under an Executive Order to be kept secret in the interest of national defense or foreign policy, and which are in fact properly classified according to such Executive Order;

(b) *Subsection (k)(2)*. Investigatory records compiled for law enforcement purposes (other than material within the scope of subsection (j)(2) as discussed in §505.13(a)). If any individual is denied any right, privilege, or benefit for which she/he would otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to the individual, unless disclosure of the material would reveal the identity of a source who has been pledged confidentiality;

(c) *Subsection (k)(3)*. Records maintained in connection with protection of the President and other VIPs accorded special protection by statute;

(d) *Subsection (k)(4)*. Records required by statute to be maintained and used solely as statistical records.

(e) *Subsection (k)(5)*. Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only if disclosure of the material would reveal the identity of a confidential source that furnished information to the Government.

(f) *Subsection (k)(6)*. Testing or examination records used solely to determine individual qualifications for appointment or promotion in the Federal service when the disclosure of such would compromise the objectivity or fairness of the testing or examination process.

(g) *Subsection (k)(7)*. Evaluation records used to determine potential for promotion in the armed services, but only if disclosure would reveal the identity of a confidential source.

§ 505.15 Exempt systems of records used.

The BBG is authorized to use exemptions (k)(1), (k)(2), (k)(4), (k)(5) and (k)(6).

PART 506—PART-TIME CAREER EMPLOYMENT PROGRAM

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AUTHORITY: 5 U.S.C. 3401 (note and 3402).

SOURCE: 44 FR 63098, Nov. 2, 1979, unless otherwise noted.

§ 506.1 Purpose of program.

Many individuals in society possess great productive potential which goes unrealized because they cannot meet the requirements of a standard workweek. Permanent part-time employment also provides benefits to other individuals in a variety of ways, such as providing older individuals with a gradual transition into retirement, providing employment opportunities to handicapped individuals or others who require a reduced workweek, providing parents opportunities to balance family responsibilities with the need for additional income, providing employment opportunities for women returning to the workforce and assisting students who must finance their own education or vocational training. In view of this, the Broadcasting Board of Governors will operate a part-time career employment program, consistent with the needs of its beneficiaries and its responsibilities.

§ 506.2 Review of positions.

Positions becoming vacant unless excepted as provided by § 506.7, will be reviewed to determine the feasibility of converting them to part-time. Among the criteria which may be used when conducting this review are:

(a) Mission requirements and occupational mix.

(b) Workload fluctuations.